



Alan C. Lloyd, Ph.D.  
Agency Secretary

**California Regional Water Quality Control Board**  
**North Coast Region**  
**Beverly Wasson, Chairperson**

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**Arnold**  
**Schwarzenegger**  
*Governor*

August 5, 2005

Mr. David Jablons  
5488 Middle Road  
Tomales, CA 94971

Dear Mr. Jablons:

**Subject:** Issuance of Clean Water Act Section 401 Certification (Water Quality Certification) for the Jablons Property Stream Restoration Project, Marin County

**File:** Jablons Property Stream Restoration Project, Marin County, WDID No. 1B05012WNMA

This Order by the California Regional Water Quality Control Board, North Coast Region (Regional Water Board), is being issued pursuant to Section 401 of the Clean Water Act (33 USC 1341). It is being issued in response to Mr. David Jablons' February 3<sup>rd</sup>, 2005 request for a Clean Water Act, Section 401, Water Quality Certification.

On February 3, 2005, the North Coast Regional Water Quality Control Board (Regional Water Board) received an application from Mr. Brent Schumacher, on behalf of Mr. David Jablons, requesting a Water Quality Certification and/or Waste Discharge Requirements (Dredge/Fill Projects) for the placement of rock hardening and the removal of tires and other materials in a gully located in Tomales, Marin County. The Regional Water Board received a complete application and processing fee in the amount of \$500.00 on April 28, 2005. Information describing the proposed project was noticed for public comment for a 21-day period on the Regional Water Board's website. No comments were received. The proposed project will cause disturbances to the Waters of the State associated with an ephemeral stream, tributary to Stemple Creek, Estero de San Antonio Hydrologic Area No. 15.30, Bodega Hydrologic Unit No. 115.00.

**Project Description:** The proposed project involves the removal of tires, construction debris, and other materials historically used to stabilize a channel, and the subsequent re-grading and rock lining of the waterway, located at 5488 Middle Road, Tomales, Marin County. According to the Applicant, the purpose of the project is to prevent further gully erosion on grazed rangeland.

The project proposes to remove foreign debris from the channel and sorting, stockpiling, and disposing of it at an approved landfill as required by the California Integrated Waste Management Board. Said materials will be removed using an excavator, stockpiled for up to two days until they can be sorted, loaded onto dump trucks, and disposed of at an approved location. Some of the non-native soils will be blended with native materials and used in the re-grading of the channel.

Upon removal of materials from the channel, the Applicant proposes to grade the gully with a four-foot bed and 2:1 side slopes, and then line the bed and bank with rock riprap placed with an excavator. The ephemeral stream to be impacted is approximately 1200 feet long and 4-6 feet deep. The channel is steeply sloped, running from an approximate elevation of 200 feet to an approximate elevation of 85 feet, where it discharges into an existing culvert. As such, the Applicant feels that the rock lining is the most effective method for stabilizing the channel.

The project affects 0.22 acres of jurisdictional Waters of the State, as delineated by Mr. Brent Schumacher, USDA-NRCS.

Construction is projected to be completed in August 2005 and is not proposed for the rainy season between October 15th and May 15th.

Receiving Water:

An ephemeral stream, tributary to Stemple Creek, Estero de San Antonio Hydrologic Area No. 15.30, Bodega Hydrologic Unit No. 115.00.

Filled or  
Excavated Area:

Total Area Impacted: 0.22 acre  
Area Temporarily Impacted: 0.00 acre  
Area Permanently Impacted: 0.22 acre

Total Linear Impacts: 1200 linear feet impacted  
Length Temporarily Impacted (Restored): 1200 feet  
Length Permanently Impacted (Not Restored): 0.000 feet

Federal Permit:

The Applicant has been in communication with the U.S. Army Corps of Engineers, and is currently seeking a permit under Clean Water Act Section 404 (File No. 29403N)

State and Local  
Approvals:

An application for a Lake and Streambed Alteration Agreement was submitted to California Department of Fish and Game on January 30, 2005.

Compensatory  
Mitigation Overview:

None required

Compensatory  
Mitigation:

None. Compensatory Mitigation is not required for this project as the implementation of the project as proposed will serve to stabilize a rapidly eroding channel and reduce the impacts of the current sediment discharge into Stemple Creek. Further, the project will incorporate willow plantings at a 10 foot center on both sides of the channel that, when mature, will help to ease the strain of the increased velocity resulting from the rock lined channel. Therefore there is no compensatory mitigation proposed as part of this project.

Noncompensatory  
Mitigation:

Non-compensatory mitigation measures include the use of Best Management Practices (BMPs) for sediment and erosion control, to include fiber rolls, silt fencing, willow sprigging by hand, and conducting work while the ephemeral stream is dry. Upon completion, the gully will be fenced to exclude livestock, and the channel banks will be planted with an erosion control vegetation mix and irrigated until established. An existing grove of Cypress and Eucalyptus trees near the upstream end of the gully (providing roughly 75 percent cover) will not be disturbed during construction.

CEQA Compliance:

The Regional Water Board, as the lead California Environmental Quality Act (CEQA) agency, has determined that this project qualifies for Categorical Exemption Section 15308, Class-8, *Actions by Regulatory Agencies for Protection of the Environment*, pursuant to CEQA (As determined by the County of Marin in a Notice of Exemption dated February 11, 2004).

Standard Conditions:

Pursuant to Title 23, California Code of Regulations, Section 3860 (23 CCR 3860), the following three standard conditions shall apply to this project:

- 1) This certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Section 13330 of the California Water Code and 23 CCR 3867.
- 2) This certification action is not intended and shall not be construed to apply to any discharge from any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to 23 CCR 3855(b) and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
- 3) The validity of any non-denial certification action (actions 1 and 2) shall be conditioned upon total payment of the full fee required under 23 CCR 3833, unless otherwise stated in writing by the certifying agency.

Additional Conditions:

Pursuant to 23 CCR 3859(a), the applicant shall comply with the following additional conditions:

- 1) The Regional Water Board shall be notified in writing at least five business days (working days are Monday – Friday) prior to the commencement of work, with details regarding the construction schedule, in order to allow staff to be present on-site during construction, and to answer any public inquiries that may arise regarding the project.
- 2) No debris, soil, silt, sand, bark, slash, sawdust, rubbish, cement or concrete washings, oil or petroleum products, or other organic or earthen material from any construction or associated activity of whatever nature, other than that authorized by this permit, shall be allowed to enter into or be placed where it may be washed by rainfall into waters of the State. When operations are completed, any excess material or debris shall be removed from the work area. No rubbish shall be deposited within 150 feet of the high water mark of any stream.

- 3) BMPs for erosion, sediment and turbidity control shall be implemented and in place prior to, during, and after construction in order to ensure that no silt or sediment enters surface waters. Native seeding will be done on all exposed areas post construction to reduce future potential erosion concerns.
- 4) The Applicant will irrigate the site as needed until willow sprigs are successful. Should the willows fail to thrive, the Applicant will be required to replant and monitor until the vegetation efforts achieve 85 percent success of willows planted.
- 5) Instream work shall not commence until June 15<sup>th</sup> and all work within the waterway shall be complete prior to October 15<sup>th</sup>.
- 6) A copy of this permit must be provided to the Contractor and all subcontractors conducting the work, and must be in their possession at the work site.
- 7) Disturbance or removal of vegetation shall not exceed the minimum necessary to complete operations. The disturbed portions of any stream channel shall be restored to as near their original condition as possible.
- 8) If, at any time, a discharge to surface waters occurs, or any water quality problem arises, the project shall cease immediately and the Regional Water Board shall be notified promptly.
- 9) If flowing water is present in the channel at the time of construction, the work site shall be dewatered through the installation of sandbag and/or gravel cofferdams, and a by-pass pipe sufficient to handle any discernable flow changes, above and below the project reach. Installation of cofferdams and the by-pass pipe shall be performed in a manner that will minimize aquatic impact within the dewatered area.

- 10) This Order is not transferable. In the event of any change in control of ownership of land presently owned or controlled by the Applicant, the Applicant shall notify the successor-in-interest of the existence of this Order by letter and shall forward a copy of the letter to the Regional Water Board at the above address.

To discharge dredged or fill material under this Order, the successor-in-interest must send to the Regional Water Board Executive Officer a written request for transfer of the Order. The request must contain the requesting entity's full legal name, the state of incorporation if a corporation, address and telephone number of the person(s) responsible for contact with the Regional Water Board. The request must also describe any changes to the Project proposed by the successor-in-interest or confirm that the successor-in-interest intends to implement the Project as described in this Order.

- 11) The Applicant shall provide photos of the completed work to the appropriate Regional Water Board staff person, in order to document compliance. The Applicant shall also provide photos of the completed work areas after the first significant rainfall event in order to ensure that erosion control has been successful.

Water Quality  
Certification:

I hereby issue an order [23 CCR Subsection 3831(e)] certifying that the authorized discharge from the Jablons' Property Stream Restoration Project (WDID No. 1B05012WNMA) will comply with the applicable provisions of Sections 301 ("Effluent Limitations"), 302 ("Water Quality Related Effluent Limitations"), 303 ("Water Quality Standards and Implementation Plans"), 306 ("National Standards of Performance"), and 307 ("Toxic and Pretreatment Effluent Standards") of the Clean Water Act [33 USC Subsection 1341 (a)(1)], and with other applicable requirements of State law. This discharge is also regulated under State Water Resources Control Board Order No. 2003-0017-DWQ, "General Waste Discharge Requirements for Dredge and Fill Discharges That Have Received State Water Quality Certification" which requires compliance with all conditions of this Water Quality Certification (enclosed).

Except as may be modified by any preceding conditions, all certification actions are contingent on: a) the discharge being limited and all proposed mitigation being completed in strict compliance with the applicant's project description, and b) compliance with all applicable requirements of the Regional Water Board's Water Quality Control Plan for the North Coast Region (Basin Plan).

Expiration: The authorization of this certification for any dredge and fill activities expires on October 15, 2010, unless new information warrants revision of this determination before the expiration date. Conditions and monitoring requirements outlined in this certification are not subject to the expiration date outlined above, and remain in full effect and are enforceable.

Please notify Andrew Jensen of our staff at (707) 576-2683 prior to construction (pursuant to Additional Condition No. 1 above) so that we can answer any public inquiries about the work.

Sincerely,

Catherine Kuhlman  
Executive Officer

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Enclosure: State Water Resources Control Board Order No. 2003-0017-DWQ, General Waste Discharge Requirements for Dredge and Fill Discharges That Have Received State Water Quality Certification \_\_\_\_

cc: Ms. Jane Hicks, U.S. Army Corps of Engineers, Regulatory Branch, 333 Market Street, San Francisco, CA 94105

Mr. Brent Schumacher, USDA-NCRS, 1301 Redwood Way, Suite 170, Petaluma, CA 94954